



1995 ASSEMBLY BILL 163

February 28, 1995 - Introduced by Representatives UNDERHEIM, DUEHOLM, BAUMGART, BALDUS, DOBYNS, CULLEN, R. YOUNG, ROBSON, ZIEGELBAUER, HANSON, WILDER, RYBA, OTT, AINSWORTH and BRANCEL, cosponsored by Senators DRZEWIECKI and BRESKE. Referred to Committee on Highways and Transportation.

1 **AN ACT to renumber and amend** 343.23 (2); **to amend** 29.05 (4), 347.06 (1),
2 347.06 (4) and 347.42; and **to create** 340.01 (74v), 343.23 (2) (b), 347.06 (1m)
3 and 347.06 (5) of the statutes; **relating to:** requiring headlights and other
4 required lamps on vehicles to be lighted while windshield wipers are being
5 used.

Analysis by the Legislative Reference Bureau

Under current law, no person may operate a vehicle upon a highway during hours of darkness unless any required headlamps, tail lamps and clearance lamps of the vehicle are lighted. Failure to comply with this requirement may result in a forfeiture of not less than \$10 nor more than \$20 for a first offense and not less than \$25 nor more than \$50 for a 2nd or subsequent conviction within a year.

This bill provides that these lamps must also be lighted whenever the windshield wipers of the vehicle are being used, except temporary use to clean the windshield. A person who violates this provision is subject to the same minimum and maximum forfeiture amounts that may be imposed for failure to use these lamps during hours of darkness. The bill also prohibits a law enforcement officer from stopping or inspecting a vehicle solely to determine compliance with the above requirement. The bill provides that convictions for not having any required headlamps, tail lamps and clearance lamps of a vehicle lighted may not be recorded on the motorist's driving record.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

6 **SECTION 1.** 29.05 (4) of the statutes is amended to read:

1 29.05 (4) DRIVING WITHOUT HEADLIGHTS. In the performance of their law
2 enforcement duties under this chapter, duly authorized wardens may operate
3 vehicles owned or leased by the department upon a highway, other than an
4 interstate, a state trunk highway or any highway within the limits of any
5 incorporated area, during hours of darkness or at any time a windshield wiper is
6 being used on the windshield of the vehicle, without lighted headlamps, tail lamps
7 or clearance lamps, contrary to s. 347.06 (1) or (1m), if the driving will aid in the
8 accomplishment of a lawful arrest for violation of this chapter or rules promulgated
9 under this chapter or in ascertaining whether a violation of this chapter or rules
10 promulgated under this chapter has been or is about to be committed. Any civil
11 action or proceeding brought against any warden operating a motor vehicle under
12 this subsection is subject to ss. 893.82 and 895.46.

13 **SECTION 2.** 340.01 (74v) of the statutes is created to read:

14 340.01 (74v) "Windshield wiper" means a mechanical device for cleaning rain,
15 snow or other moisture from the windshield of a vehicle.

16 **SECTION 3.** 343.23 (2) of the statutes is renumbered 343.23 (2) (a) and amended
17 to read:

18 343.23 (2) (a) The department shall maintain a file for each licensee containing
19 the application for license, permit or endorsement, a record of reports or abstract of
20 convictions, the status of the licensee's authorization to operate different vehicle
21 groups, a record of any out-of-service orders issued under s. 343.305 (7) (b) or (9)
22 (am) and a record of any reportable accident in which the licensee has been involved,
23 including specification of the type of license and endorsements issued under this
24 chapter under which the licensee was operating at the time of the accident and an
25 indication whether or not the accident occurred in the course of the licensee's

1 employment as a law enforcement officer, fire fighter or emergency medical
2 technician — paramedic or as a person engaged, by an authority in charge of the
3 maintenance of the highway, in highway winter maintenance snow and ice removal
4 during either a storm or cleanup following a storm. This information must be filed
5 by the department so that the complete operator's record is available for the use of
6 the secretary in determining whether operating privileges of such person shall be
7 suspended, revoked, canceled or withheld in the interest of public safety. The record
8 of suspensions, revocations and convictions that would be counted under s. 343.307
9 (2) shall be maintained for at least 10 years. The record of convictions for
10 disqualifying offenses under s. 343.315 (2) (f) shall be maintained for at least 3 years.
11 The record of convictions for disqualifying offenses under s. 343.315 (2) (a) to (e) shall
12 be maintained permanently, except that 5 years after a licensee transfers residency
13 to another state such record may be transferred to another state of licensure of the
14 licensee if that state accepts responsibility for maintaining a permanent record of
15 convictions for disqualifying offenses. Such reports and records may be cumulative
16 beyond the period for which a license is granted, but the secretary, in exercising the
17 power of revocation granted under s. 343.32 (2) may consider only those reports and
18 records entered during the 4-year period immediately preceding the exercise of such
19 power of revocation. For purposes of this ~~subsection~~ paragraph, "highway winter
20 maintenance snow and ice removal" includes plowing, sanding, salting and the
21 operation of vehicles in the delivery of those services.

22 **SECTION 4.** 343.23 (2) (b) of the statutes is created to read:

23 343.23 (2) (b) The file for a licensee under this subsection shall not include any
24 conviction under s. 347.06 or a local ordinance in conformity therewith or a law of a
25 federally recognized American Indian tribe or band in this state in conformity with

1 s. 347.06 or the law of another jurisdiction prohibiting operating a vehicle without
2 lighted headlamps, tail lamps or clearance lamps, as those or substantially similar
3 terms are used in that jurisdiction's laws.

4 **SECTION 5.** 347.06 (1) of the statutes is amended to read:

5 347.06 (1) Except as provided in subs. (2) and (4), no person may operate a
6 vehicle upon a highway during hours of darkness unless all headlamps, tail lamps
7 and clearance lamps with which such vehicle is required to be equipped are lighted.
8 Parking lamps as ~~defined~~ described in s. 347.27 shall not be used for this purpose.

9 **SECTION 6.** 347.06 (1m) of the statutes is created to read:

10 347.06 (1m) Except as provided in subs. (2) and (4), no person may operate a
11 vehicle upon a highway at any time a windshield wiper is being used on the
12 windshield of the vehicle unless all headlamps, tail lamps and clearance lamps with
13 which such vehicle is required to be equipped are lighted. Parking lamps as
14 described in s. 347.27 shall not be used for this purpose. This subsection does not
15 apply to temporary use of a windshield wiper for the sole purpose of cleaning the
16 windshield.

17 **SECTION 7.** 347.06 (4) of the statutes is amended to read:

18 347.06 (4) A duly authorized warden, as defined in s. 24.01 (11), may operate
19 a vehicle owned or leased by the department of natural resources upon a highway,
20 during hours of darkness or at any time a windshield wiper is being used on the
21 windshield of the vehicle, without lighted headlamps, tail lamps or clearance lamps
22 in the performance of the warden's duties under s. 29.05 (4).

23 **SECTION 8.** 347.06 (5) of the statutes is created to read:

24 347.06 (5) Notwithstanding s. 349.02, a law enforcement officer may not stop
25 or inspect a vehicle solely to determine compliance with sub. (1m) or a local ordinance

1 in conformity with sub. (1m). This subsection does not limit the authority of a law
2 enforcement officer to issue a citation for a violation of sub. (1m) or a local ordinance
3 in conformity with sub. (1m) observed in the course of a stop or inspection made for
4 other purposes, except that a law enforcement officer may not take a person into
5 physical custody solely for a violation of sub. (1m) or a local ordinance in conformity
6 with sub. (1m).

7 **SECTION 9.** 347.42 of the statutes is amended to read:

8 **347.42 Windshield wipers.** No person may operate on a highway any motor
9 vehicle equipped with a windshield, except a moped or Type 1 motorcycle, unless the
10 motor vehicle also is equipped with a device for cleaning rain, snow or other moisture
11 ~~from the windshield. The device~~ windshield wiper. The windshield wiper shall be
12 so constructed as to be controlled or operated by the operator of the vehicle and shall
13 at all times be maintained in good working order.

14 (END)